

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Bek et al.

Group: 3739

Serial No.: 09/974,750

Examiner: Unknown

Filed: 10 October 2001

For: SYSTEMS AND METHODS FOR MONITORING AND CONTROLLING USE OF MEDICAL DEVICES

Commissioner of Patents  
Washington, D.C. 20231  
ATTENTION: Application Division

COPY OF PAPERS  
ORIGINALLY FILED

## COMPLETION OF FILING REQUIREMENTS

(check and complete this item, if applicable)

- I. [x] This replies to the Notice to File Missing Parts of Application (PTO-1533) mailed 31 October 2001.

NOTE: If these papers are filed before the office letter issues adequate identification of the original papers should be made, e.g., in addition to the name of the inventor and title of invention, the filing date based on the "Express Mail" procedure, the serial number from the return post card or the attorney's docket number added.

- [x] A copy of the Notice to File Missing Parts of Application-Filing Date Granted (Form PTO-1533) is enclosed.

NOTE: The PTO requires that a copy of Form PTO-1533 be returned with the response to the notice to file missing parts to the application.

## DECLARATION OR OATH

- II. [x] No original declaration or oath was filed and enclosed is the original declaration or oath for this application.

## CERTIFICATE OF MAILING (37 CFR 1.8a)

I hereby certify that this paper (along with any paper referred to as being transmitted therewith) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to the: Commissioner of Patents and Trademarks, Washington, D.C. 20231.

Date: 30 April 2002

Mary Szollar  
(Type or print name of person mailing paper)

Mary Szollar  
(Signature of person mailing paper)

05/13/2002 YPOLITE1 00000011 9974750

04 FC:218

720.00 OP

05/14/2002 YPOLITE1 00000010 09974750

04 FC:218

720.00 OP

OR

- ☐ The original declaration or oath which was filed was determined to be defective. A new original oath or declaration is attached.

**NOTE:** 37 CFR 1.41(a) points out that "Full names must be stated, including the family name and at least one given name without abbreviation together with any other given name or initial."

**NOTE:** For surcharge fee for filing declaration after filing date complete item VI(3) below.

**NOTE:** Acceptable minimums in the declaration for identification of the specification to which it applies are the name of the inventor AND (1) SERIAL NUMBER (2) ATTORNEY DOCKET NUMBER WHICH WAS ON THE APPLICATION AS FILED AND THE FILING DATE (3) TITLE OF THE INVENTION AND FILING DATE (4) TITLE OF INVENTION AND REFERENCE TO A SPECIFICATION WHICH IS ATTACHED TO THE DECLARATION AT THE TIME OF EXECUTION AND FILED WITH THE DECLARATION OR (5) TITLE OF INVENTION AND A STATEMENT BY A REGISTERED ATTORNEY THAT THE APPLICATION FILED IN THE PTO IS THE APPLICATION WHICH THE INVENTOR EXECUTED BY SIGNING THE DECLARATION. IF IDENTIFICATION (4) IS USED IT MUST BE ACCOMPANIED BY A STATEMENT THAT THE "ATTACHED" SPECIFICATION IS A COPY OF THE SPECIFICATION AND ANY AMENDMENTS THERETO WHICH WERE FILED IN THE PTO TO OBTAIN THE FILING DATE; SUCH A STATEMENT MUST BE A VERIFIED STATEMENT IF MADE BY A PERSON NOT REGISTERED TO PRACTICE BEFORE THE PTO. NOTICE OF SEPTEMBER 12, 1983 (1035 O.G. 3).

**NOTE:** Another minimum found acceptable in the declaration is the filing date (i.e., date of express mail) and the express mail number, useful where the serial number is not yet known. But note the practice where the express mail deposit is a Saturday, Sunday or holiday within the District of Columbia. 37 CFR 1.10(c).

(complete (c) or (d), if applicable)

Attached is a

- (c) ☒ Statement by a registered attorney that the application filed in the PTO is the application which the inventor executed by signing the declaration.
- (d) ☐ Statement that the "attached" specification is a copy of the specification and any amendments thereto which were filed in the PTO to obtain the filing date.

#### AMENDMENT CANCELLING CLAIMS

- III. ☐ Cancel claims \_ inclusive.

#### TRANSMITTAL OF ENGLISH TRANSLATION OF NON-ENGLISH LANGUAGE PAPERS

IV.

- ☐ Submitted herewith is a verified English translation of the non-English language application papers as originally filed. It is requested that this translation be used as the copy for examination purposes in the PTO.

**NOTE:** For fee processing a non-English application complete item VI(5) below.

**NOTE:** A non-English oath or declaration in the form provided or approved by the PTO need not be translated. 37 CFR 1.69(b).

**NOTE:** The translation for a regular application filed in a foreign language must be verified. 37 CFR 1.52(d).

**SMALL ENTITY STATUS**

V.

☒ The applicant is a small entity and is entitled to Small Entity Status.

VI.

**COMPLETION FEES**

**WARNING:** Failure to submit the surcharge fees where required will cause the application to become abandoned. 37 CFR 1.53(d).

**NOTE:** The filing fees, fees for claims and surcharge fees listed below in items 1, 2 and 3 are reduced by 50% where proof of a small entity status is established on or before the date the fee is paid. If the full fee was paid but a verified statement is filed within 2 months of the date of timely payment of a fee then the excess fee paid will be refunded on request. 37 CFR 1.28(a).

1. Filing fee

☒ original patent application (37 CFR 1.16(a))  
\$740.00; Small entity-\$370.00 \$ 370.00

☐ design application (37 CFR 1.16(f))  
\$330.00; small entity-\$165.00 \$ \_\_\_\_\_

2. fees for claims

☐ each independent claim in excess of 3  
(37 CFR 1.16(b)-\$84.00; small entity-\$42.00) \$ \_\_\_\_\_

☒ each claim in excess of 20  
(37 CFR 1.16(c)-\$18.00; small entity-\$9.00) \$ 18.00

☐ multiple dependent claim(s)  
(37 CFR 1.16(d)-\$280.00; small entity-\$140.00) \$ \_\_\_\_\_

3. surcharge fees

☒ late payment of filing fee

and/or

☒ late filing of original declaration or oath  
(37 CFR 1.16(e)-\$130.00; small entity-\$65.00); \$ 65.00

**NOTE:** Even where a facsimile declaration or oath signed by the inventor(s) was part of the originally filed papers the surcharge fee is required.

**NOTE:** If both the filing fee and declaration or oath were missing from the original papers only one surcharge fee for both need be paid. 37 CFR 1.16(e).

4. ☐ petition and fee for filing by other than all the inventors  
or a person not the inventor  
(37 CFR 1.17(h) and 1.47-\$130.00) \$ \_\_\_\_\_

5. ☐ fee for processing an application filed with a specification  
in a non-English language  
(37 CFR 1.17(k) and 1.52(d)-\$130.00) \$ \_\_\_\_\_

6. ☐ fee for processing and retention of application (37 CFR 1.21(l) and 1.53(d)) - \$300.00 \$ \_\_\_\_\_

**NOTE:** 37 CFR 1.21(l) establishes a fee for processing and retaining any application which is abandoned for failing to complete the application pursuant to 37 CFR 1.53(d) and this, as well as, the changes to 37 CFR 1.53 and 1.78 indicate that in order to obtain the benefit of a prior U.S. application, either the basic filing fee or the processing and retention fee of S 1.21(1) within 1 year of notification under S 1.53(d) must be paid.

Total completion fees \$ 453.00

**VII.**

**EXTENSION OF TIME**

(complete (a) or (b) as applicable)

The proceedings herein are for a patent application and the provisions of 37 CFR 1.136(a) apply.

(a) ☒ Applicant petitions for an extension of time, the fees for which are set out in 37 CFR 1.17(a)-(d), for the total number of months checked below:

Extension (months)	Fee for other than <u>Small Entity</u>	Fee for <u>Small Entity</u>
<input type="checkbox"/> one month	\$ 110.00	\$ 55.00
<input type="checkbox"/> two months	\$ 400.00	\$200.00
<input type="checkbox"/> three months	\$ 920.00	\$460.00
<input checked="" type="checkbox"/> four months	\$ 1440.00	\$720.00
<input type="checkbox"/> five months	\$ 1960.00	\$985.00

If an additional extension of time is required please consider this a petition therefor.

(check and complete the next item, if applicable)

☐ An extension for \_\_\_\_\_ months has already been secured and the fee paid therefor of \$ \_\_\_\_\_ is deducted from the total fee due for the total months of extension now requested.

Extension fee due with this request \$ \_\_\_\_\_

or

(b) ☐ Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

**VIII.**

**TOTAL FEE DUE**

The total fee due is

Completion fee(s) \$ 453.00

Extension fee (if any) \$ 720.00

TOTAL FEE DUE \$ 1,173.00

IX.

PAYMENT OF FEES

#3

- ☒ enclosed is a check in the amount of \$ 1,213.00 (includes assignment recordal)
- ☐ charge Account No. \_\_\_\_\_ in the amount of \$ \_\_\_\_\_. A duplicate of this request is attached.

NOTE: Fees should be itemized in such a manner that it is clear for which purpose the fees are paid. 37 CFR 1.22(b).

X.

AUTHORIZATION TO CHARGE ADDITIONAL FEES

WARNING: ACCURATELY COUNT CLAIMS, ESPECIALLY MULTIPLE DEPENDANT CLAIMS, TO AVOID UNEXPECTED HIGH CHARGES IF EXTRA CLAIMS ARE AUTHORIZED.

- ☒ The Commissioner is hereby authorized to charge the following additional fees which may be required by this paper and during the pendency of this application to Account No. 06-2360.
- ☒ 37 CFR 1.16 (a), (f) or (g) (filing fees)
- ☒ 37 CFR 1.16 (b), (c) and (d) (presentation of extra claims)

NOTE: Because additional fees for excess or multiple dependent claims not paid on filing or on later presentation must only be paid or these claims cancelled by amendment prior to the expiration of the time period set for response by the PTO in any notice of fee deficiency (37 CFR 1.16(d)), it might be best not to authorize the PTO to charge additional claim fees, except possibly when dealing with amendments after final action.

- ☒ 37 CFR 1.16(e) (surcharge for filing the basic filing fee and/or declaration on a date later than the filing date of the application)
- ☒ 37 CFR 1.17 (application processing fees)

WARNING: WHILE 37 CFR 1.17(A), (B), (C) AND (D) DEAL WITH EXTENSIONS OF TIME UNDER S 1.136(A) THIS AUTHORIZATION SHOULD BE MADE ONLY WITH THE KNOWLEDGE THAT: "SUBMISSION OF THE APPROPRIATE EXTENSION FEE UNDER 37 CFR 1.136(A) IS TO NO AVAIL UNLESS A REQUEST OR PETITION FOR EXTENSION IS FILED." (EMPHASIS ADDED). NOTICE OF NOVEMBER 5, 1985 (1060 O.G. 27).

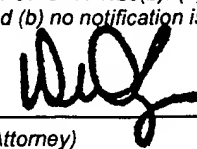
- ☐ 37 CFR 1.18 (issue fee at or before mailing of Notice of Allowance, pursuant to 37 CFR 1.311(b))

NOTE: Where an authorization to charge the issue fee to a deposit account has been filed before the mailing of a Notice of Allowance, the issue fee will be automatically charged to the deposit account at the time of mailing the notice of allowance. 37 CFR 1.311(b).

NOTE: 37 CFR 1.28(b) requires "Notification of any change in loss of entitlement to small entity status must be filed in the application ... prior to paying, or at the time of paying ... issue fee". From the wording of 37 CFR 1.28(b): (a) notification of change of status must be made even if the fee is paid as "other than a small entity" and (b) no notification is required if the change is to another small entity.

Reg. No. 29,243

Telephone No.: (262) 783 - 1300

  
(Signature of Attorney)

Daniel D. Ryan  
(Type or Print Name of Attorney)  
RYAN KROMHOLZ & MANION, S.C.  
P.O. Box 26618  
Milwaukee, Wisconsin 53226

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of : Bek et al.


Examiner: Unknown

Serial No. : 09/974,750

Group Art Unit: 3739

Filed : 10 October 2001

Systems and Methods for Monitoring and Controlling Use of Medical Devices

**REQUEST FOR CORRECTED FILING RECEIPT**

Commissioner of Patents  
and Trademarks  
Washington, D.C. 20231

COPY OF PAPERS  
ORIGINALLY FILED

Sir:

In response to the filing receipt mailed 31 October 2001, the Applicants are identified as "David Utley and Stuart D. Edwards". Please list the Applicants' names as:

Robin Bek

John Gaiser

Jay Qin

David S. Utley

A copy of the filing receipt marked "Version with markings to show changes made" is

enclosed.

Please charge any fee insufficiency to deposit account 06-2360.

Please issue a corrected filing receipt.

Respectfully submitted,

By 

Daniel D. Ryan, Reg. No. 29,243

RYAN KROMHOLZ & MANION, S.C.  
Post Office Box 26618  
Milwaukee, Wisconsin 53226  
(262) 783 - 1300  
30 April, 2002

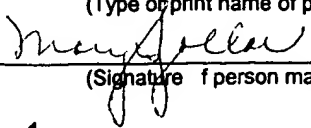
**CERTIFICATE OF MAILING (37 CFR 1.8a)**

I hereby certify that this paper (along with any paper referred to as being transmitted therewith) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to the: Commissioner of Patents and Trademarks, Washington, D.C. 20231.

Mary Szollar

(Type or print name of person mailing paper)

Date: 30 April 2002

  
(Signature of person mailing paper)



Version with markings to show changes made.

## UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, D.C. 20231  
www.uspto.gov

APPLICATION NUMBER	FILING DATE	GRP ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO.	DRAWINGS	TOT CLAIMS	IND CLAIMS
09/974,750	10/10/2001	3739	0.00	9222.16632- CIP CON	8	22	3

CONFIRMATION NO. 8777

## FILING RECEIPT



\*OC000000007001363\*

COPY OF PAPERS  
ORIGINALLY FILED

Date Mailed: 10/31/2001

Receipt is acknowledged of this nonprovisional Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Customer Service Center. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

## Applicant(s)

David Utley, Residence Not Provided;  
Stuart D. Edwards, Residence Not Provided;

Robin Bek, Campbell, California  
John Gaiser, Mountain View, California  
Jay Qin, Fremont, California  
David S. Utley, Redwood City, CA

## Assignment For Published Patent Application

Curon Medical, Inc.;

## Domestic Priority data as claimed by applicant

THIS APPLICATION IS A CON OF 09/495,390 01/31/2000  
WHICH IS A CIP OF 09/026,296 02/19/1998 PAT 6,009,877  
AND CLAIMS BENEFIT OF 60/152,749 09/08/1999

## Foreign Applications

If Required, Foreign Filing License Granted 10/30/2001

Projected Publication Date: To Be Determined - pending completion of Missing Parts

Non-Publication Request: No

Early Publication Request: No

\*\* SMALL ENTITY \*\*

Title



## UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, D.C. 20231  
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/974,750	10/10/2001	David Utley	9222.16632-CIP CON

RYAN KROMHOLZ & MANION, S.C.  
Post Office Box 26618  
Milwaukee, WI 53226



CONFIRMATION NO. 8777

## FORMALITIES LETTER



\*OC000000007001364\*

Date Mailed: 10/31/2001

## NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

COPY OF PAPERS  
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An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The statutory basic filing fee is missing.  
*Applicant must submit \$ 370 to complete the basic filing fee for a small entity.*
- Total additional claim fee(s) for this application is \$18.  
    ■ \$18 for 2 total claims over 20.
- The oath or declaration is missing.  
*A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.*
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(l) of \$65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.
- The balance due by applicant is \$ 453.

A copy of this notice **MUST** be returned with the reply.

Customer Service Center  
Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

05/13/2002 YPQLITE1 00000011 9974750  
01 FC:201 370.00 OP  
02 FC:203 18.00 OP  
03 FC:205 65.00 OP  
05/14/2002 YPQLITE1 00000010 09974750  
01 FC:201 370.00 OP  
02 FC:203 18.00 OP  
03 FC:205 65.00 OP